

# Exhibit 7

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Volume 1  
 Pages: 1-165  
 Exhibits: 19-22  
 UNITED STATES DISTRICT COURT  
 DISTRICT OF MASSACHUSETTS

----- x  
 JOHN BRADLEY,  
 Plaintiff  
 vs. Cause No.  
 1:13-cv-12927-RGS

TIMOTHY J. CRUZ, Individually,  
 MICHAEL HORAN, Individually,  
 FRANK J. MIDDLETON, Individually,  
 and OFFICE OF THE DISTRICT  
 ATTORNEY FOR PLYMOUTH COUNTY,  
 Defendants.  
 ----- x

## DEPOSITION

of

MICHAEL J. HORAN

Sinsheimer & Associates  
 92 State Street, 9th Floor  
 Boston, Massachusetts 02109

Thursday, September 24, 2015  
 10:14 a.m.

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 12 P.C.  
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11 ALSO PRESENT:  
 12 John Bradley  
 13  
 14  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24

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1 didn't go through it every year but I  
2 would say we did it every two years where  
3 supervisors would -- there was an  
4 evaluation form that they used. It wasn't  
5 necessarily uniform. I think a lot of  
6 times each department head had their own  
7 form, but the goal was to see where a  
8 particular employee was at that point and  
9 if they were performing well. And we  
10 would, we would, you know, review those  
11 things and take appropriate actions if  
12 they were needed.

13 Q. You would agree with me that the District  
14 Attorney's office very often attract young  
15 people that are looking to improve their  
16 skills. Correct?

17 A. I would agree with that.

18 Q. And then one of the reasons they will take  
19 the job is to get some early trial  
20 experience?

21 A. Yes.

22 Q. How do you determine the difference  
23 between someone who still has a lot to  
24 learn and someone whose performance is

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1 substandard?

2 A. I did not do that so I can't answer that  
3 question.

4 Q. How did the office do it, if you know?

5 A. We relied on people like Mr. Bradley, Mr.  
6 Middleton, Mr. O'Connell before  
7 Mr. Bradley was the District Court  
8 supervisor, to make those judgments for  
9 us.

10 Q. Prior to Mr. Bradley's termination, was  
11 there any senior level person terminated  
12 while you were there?

13 A. I don't believe so.

14 Q. So the information you gave me earlier  
15 tended to be younger people that were  
16 coming up through the ranks and couldn't  
17 cut it, for lack of a better phrase, for  
18 the most part?

19 A. No, I wouldn't say that. I don't think we  
20 have terminated very many attorneys  
21 anyway.

22 Q. You are the person that actually walked  
23 into the office and terminated  
24 Mr. Bradley, correct?

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1 A. He walked into my office.

2 Q. All right. Sorry. Tell me the events of  
3 that day, please.

4 A. The events of that day were that to the  
5 best of my recollection Mr. Cruz and I  
6 talked in the afternoon. It was  
7 determined with my acquiescence that I was  
8 going to deliver the news to Mr. Bradley.  
9 I called him on the phone at about four  
10 o'clock and asked him to come up to my  
11 office, and he did.

12 Q. Please continue.

13 A. I had agreed to deliver the news to  
14 Mr. Bradley because he had been a friend  
15 of mine for almost 20 years, I knew he  
16 hated Frank Middleton, and I knew he hated  
17 Tim Cruz, and I thought with his career  
18 and his commitment to being a trial  
19 attorney and our friendship that it was  
20 best that he hear that news from me. I  
21 thought he deserved that dignity that day.

22 Q. Keep going.

23 A. So Mr. Bradley came in my office. I told  
24 him that I had bad news for him, and I

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1 told him that I had volunteered to deliver  
2 it. I thought that he would know what that  
3 meant. I feel that he probably didn't. I  
4 told him that that day was his last day in  
5 the office, that I would still accept a  
6 resignation from him because I thought  
7 that would be better for his career going  
8 forward. He told me that he was absolutely  
9 not going to resign. I told him that Mr.  
10 Cruz had arranged for a similar position  
11 for him in Worcester County. He told me  
12 that he was totally uninterested in that  
13 position and he told me to instruct Mr.  
14 Cruz to not contact any other district  
15 attorneys' offices on his behalf. He told  
16 me he would be suing Mr. Cruz.

17 I told him, you know, he would  
18 have to get his property out of his office  
19 and I told him that the best way to do  
20 that would be to contact Janet Sweeney,  
21 who handled those types of personnel  
22 issues in offices. He asked, he said to  
23 me I expect to be able to say goodbye to  
24 my friends here, and I said of course you

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 2 would say we did it every two years where  
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 4 evaluation form that they used. It wasn't  
 5 necessarily uniform. I think a lot of  
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 6 Middleton, Mr. O'Connell before  
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 8 supervisor, to make those judgments for  
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 11 there any senior level person terminated  
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 16 coming up through the ranks and couldn't  
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 9 not going to resign. I told him that Mr.  
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 11 for him in Worcester County. He told me  
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 18 have to get his property out of his office  
 19 and I told him that the best way to do  
 20 that would be to contact Janet Sweeney,  
 21 who handled those types of personnel  
 22 issues in offices. He asked, he said to  
 23 me I expect to be able to say goodbye to  
 24 my friends here, and I said of course you

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1 could say goodbye to your friends. And I  
 2 believe he did that that afternoon, at  
 3 least to whoever else was there. And he  
 4 told me that he wanted me to make sure  
 5 that his goal in life was going to be to  
 6 destroy Tim Cruz's career and then he  
 7 left, and then he left my office.  
 8 Q. Now, you said that you talked to Mr. Cruz  
 9 prior to that meeting?  
 10 A. Right.  
 11 Q. Tell me about that conversation,  
 12 everything that each of you said to the  
 13 other.  
 14 A. I don't recall it.  
 15 Q. Where was it?  
 16 A. It was in Mr. Cruz's office.  
 17 Q. I think you just told me a minute ago,  
 18 Mr. Bradley was a friend of yours?  
 19 A. That is right.  
 20 Q. And in this conversation you are being  
 21 told you are going to terminate your  
 22 friend?  
 23 A. Right.  
 24 Q. And you volunteered to do that?

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1 A. That is correct.  
 2 Q. You don't remember anything else?  
 3 A. I don't remember what was said that day. I  
 4 can tell you that over some short period  
 5 of time I had already told Mr. Cruz I  
 6 absolutely would not do it because of what  
 7 you just said, because he was my friend. I  
 8 wasn't happy he was leaving the office for  
 9 a variety of reasons. But it is obviously  
 10 a far more difficult day for the guy who  
 11 gets that kind of news, but it was not an  
 12 easy day for me. So I don't have a  
 13 specific recollection of my conversation  
 14 with Mr. Cruz that day.  
 15 Q. You said a minute ago that for a short  
 16 period of time you had been discussing  
 17 this with Mr. Cruz.  
 18 A. Yes.  
 19 Q. And that you apparently had said you  
 20 didn't want to do it?  
 21 A. That is right.  
 22 Q. When did he first approach you and tell  
 23 you that you wanted you to do it?  
 24 A. I don't remember.

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1 Q. I am going to pick on your word, your own  
 2 word, you can take it back if you want.  
 3 Short, at what length a period of time  
 4 were these discussions taking place? Let  
 5 me withdraw that. Over what period of time  
 6 did these discussions take place?  
 7 A. To the best of my recollection, they took  
 8 place during and after the period of time  
 9 that Mr. Bradley tried his last case.  
 10 Q. So Mr. Bradley tried a case and received a  
 11 good verdict?  
 12 A. I believe so.  
 13 Q. And then there were some discussions among  
 14 you and Mr. Cruz?  
 15 A. To the best of my recollection, whatever  
 16 discussions Mr. Cruz and I had occurred  
 17 either during and/or after he finished his  
 18 trial.  
 19 Q. If I suggest to you that that was -- well,  
 20 not during, but the trial finished two or  
 21 three days before he was asked to leave,  
 22 would that be consistent with your memory?  
 23 A. Yes.  
 24 Q. I understand you said earlier you can't

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1 remember, but do me a favor -- strike  
 2 that. Please state for the record every  
 3 single thing you can remember about your  
 4 interactions with Mr. Cruz concerning  
 5 Mr. Bradley in the period between the  
 6 termination of Mr. Bradley's last trial  
 7 and the actual conversation you described  
 8 a moment ago.  
 9 A. The only thing I recall is that those  
 10 discussions centered around who was going  
 11 to give Mr. Bradley the news.  
 12 Q. Had Mr. Cruz made it clear that he wasn't  
 13 going to?  
 14 A. I don't recall that, no.  
 15 Q. But why was there a debate over who was  
 16 going to give him the news, or discussion.  
 17 I will withdraw the word "debate".  
 18 Why was there discussion about  
 19 who was going to give him the news?  
 20 A. I think he preferred that I do it.  
 21 Q. Mr. Cruz did?  
 22 A. Yes.  
 23 Q. Would you agree with me that over the  
 24 entire 14-year period of his District

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1 Attorney's tenure, that Mr. Cruz doesn't  
2 like to take any kind of controversial  
3 action?

4 MR. COHEN: Objection.

5 MR. SINSHEIMER: Withdrawn in  
6 that form.

7 A. I would say --

8 MR. COHEN: Objection. He  
9 withdrew the question.

10 THE WITNESS: Oh, okay.

11 Q. Mr. Cruz doesn't like to get his hands  
12 dirty?

13 MR. COHEN: Objection.

14 A. I wouldn't put it that way.

15 Q. How would you put it?

16 MR. COHEN: Objection. Go ahead.

17 A. I think Mr. Cruz is conflict diverse. He  
18 does not want to engage in situations that  
19 are uncomfortable or he has to give  
20 somebody bad news or are just difficult.

21 MR. SINSHEIMER: This is a good  
22 place to take a five-minute break, Bret.

23 MR. COHEN: Sounds great.

24 (Brief recess.)

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1 MR. SINSHEIMER: Back on the  
2 record, please. Would you read back the  
3 last question, please.

4 (Question read back as requested.)

5 MR. SINSHEIMER: Thank you.

6 Q. (By Mr. Sinsheimer) We had talked earlier  
7 about the conversation you had with  
8 Mr. Bradley on his last day. Do you  
9 recall that?

10 A. I do.

11 Q. Is there anything else at all about that  
12 conversation you can recall that hasn't  
13 been put on the record?

14 A. About the conversation, no.

15 Q. About the events?

16 A. His reaction surprised me somewhat.

17 MR. COHEN: So just so the record  
18 is clear, when you say his reaction, you  
19 mean --

20 THE WITNESS: Mr. Bradley's  
21 reaction. I am sorry.

22 MR. COHEN: Okay.

23 Q. So with respect to your state of mind, you  
24 are telling me you described this reaction

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1 before, correct?

2 A. I am sorry.

3 Q. You had already described his reaction in  
4 full, meaning his verbal reaction?

5 A. Yes.

6 Q. All right. What else about his reaction  
7 other than what he said was significant?

8 A. He -- he seemed somewhat surprised.

9 Q. Okay. And you say that surprised you?

10 A. I couldn't imagine how he could be  
11 surprised.

12 Q. And why was that?

13 A. Well, because of the "I am not your child"  
14 e-mail, because of the conversation that  
15 he had with the District Attorney where  
16 they talked about Mr. Bradley finishing  
17 his two trials and hitting the road  
18 because he didn't like how the office was  
19 running. There was another e-mail that  
20 Mr. Bradley sent to Kendra Salvatore, Mr.  
21 Cruz's executive assistant, wherein after  
22 the first of those two trials Mr. Bradley  
23 sent to her an e-mail that said something  
24 to the effect that don't, don't worry

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1 about the DA getting tired coming down the  
2 hall, I have already slapped my own back  
3 for that win.

4 When you do that kind of stuff,  
5 you can't be too surprised that it didn't  
6 come out good for you.

7 Q. All right. So just to make the record,  
8 the e-mail that you are referring to about  
9 the congratulatory pat on the back so to  
10 speak, that is Exhibit 15, or at least the  
11 precise one is the first of that string?

12 A. Yes.

13 Q. And there are two or three more in that  
14 string on that page?

15 A. That is correct.

16 Q. And this was sent in January of 2012?  
17 (Witness perusing document.)

18 A. Yes.

19 Q. Immediately following a victory of a  
20 substantially important murder case?

21 A. That, I don't know.

22 Q. Is there anything else you can recall  
23 about the meeting?

24 A. No.

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1 Q. You testified that you told Mr. Bradley  
2 that essentially, and I am paraphrasing  
3 just to change the topic here, that  
4 essentially there was a job lined up for  
5 him in Worcester.  
6 Do you recall that testimony?  
7 A. I do.  
8 Q. Where did you get that information?  
9 A. Mr. Cruz.  
10 Q. Well, I had asked you earlier if you could  
11 remember what Mr. Cruz told you and you  
12 didn't bring that up. Is there anything  
13 about that that you now remember?  
14 A. About that job opportunity?  
15 Q. Yes.  
16 A. Just in general terms, that Mr. Cruz had  
17 spoken to Mr. Early and he was confident  
18 that he could get Mr. Bradley a job out  
19 there.  
20 Q. Had you spoken to Mr. Early?  
21 A. No.  
22 Q. What is the exact language you used in  
23 describing that possibility to  
24 Mr. Bradley?

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1 A. It is exactly as I said before.  
2 Q. Word for word?  
3 A. Yes.  
4 Q. When did Mr. Cruz tell you that he had  
5 spoken to Mr. Early?  
6 A. I don't recall.  
7 Q. Why did Mr. Cruz speak to Mr. Early?  
8 MR. COHEN: Objection. Go ahead.  
9 A. I believe Mr. Cruz spoke to Mr. Early  
10 because he didn't want Mr. Bradley to have  
11 no job.  
12 Q. So you believe he voluntarily reached out  
13 to Mr. Early?  
14 A. Yes.  
15 Q. Knowing he was going to terminate Mr.  
16 Cruz?  
17 A. I believe so.  
18 Q. And do you have any idea when that was?  
19 A. I don't.  
20 COURT REPORTER: Your question  
21 was --  
22 MR. SINSHEIMER: I just caught  
23 that. Thank you.  
24 Q. Mr. Cruz reached out to Mr. Early knowing

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1 he was going to terminate Mr. Bradley,  
2 right?  
3 A. Yes.  
4 Q. And you have no idea when that happened?  
5 A. No, I don't.  
6 Q. Did you put any conditions on -- in other  
7 words, when you were describing with  
8 Mr. Bradley the possibility of him getting  
9 employment elsewhere, did you make,  
10 express that there would be any  
11 conditions?  
12 A. No.  
13 Q. None whatsoever?  
14 A. No.  
15 Q. Is there anything else about the day of  
16 his termination that you recall?  
17 A. No.  
18 Q. Nothing whatsoever?  
19 A. Nope.  
20 Q. Did you attend the 2014 prosecutor's  
21 conference?  
22 A. I did not.  
23 Q. Understanding it might be hearsay but just  
24 to put things in perspective, you

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1 understand it was a conference at which it  
2 was alleged that Mr. Middleton may have  
3 engaged in some misconduct?  
4 A. Yes.  
5 Q. I just want to make sure we are talking  
6 about the same conference. Your testimony  
7 is you weren't even there?  
8 A. I was not there.  
9 Q. Do you know which conference I am talking  
10 about?  
11 A. I do.  
12 Q. Were you involved in any way in the  
13 investigation into the allegations that  
14 Mr. Middleton may have engaged in some  
15 misconduct?  
16 A. No.  
17 Q. Apart from my use of the word "involved",  
18 were you monitoring or familiar with the  
19 process of investigation?  
20 A. No, I was not.  
21 MR. COHEN: Objection. Go ahead.  
22 Q. You told me you read Mr. Cruz's deposition  
23 transcript?  
24 A. Yes.

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1 means.  
 2 Q. But I think you're telling me that in fact  
 3 there were quite a number of people and  
 4 they weren't led by Bradley, they all  
 5 agreed simultaneously that the Middletons  
 6 were the problem. Correct?  
 7 A. Well, I think that Mr. Bradley was  
 8 probably -- I guess I would characterize  
 9 him as the leader of it. But there were  
 10 certainly a lot of folks that felt exactly  
 11 the same way that he and I did.  
 12 Q. And you were one of them?  
 13 A. I felt the same way about those issues as  
 14 Mr. Bradley did.  
 15 Q. Now, if you jump down to the end, it says  
 16 it is well-known that JB and KO sat out  
 17 purposely.  
 18 Do you see that?  
 19 A. I do.  
 20 Q. What does that phrase "sat out" mean in  
 21 that?  
 22 MR. COHEN: Objection. Go ahead  
 23 and answer.  
 24 A. I don't know.

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1 Q. Your testimony is you don't know?  
 2 A. I don't know what she meant when she wrote  
 3 that, no.  
 4 Q. All right. That is fair. That phrase,  
 5 "to sit out the election", did that have  
 6 meaning in the vernacular of the Plymouth  
 7 County District Attorney's Office, quite  
 8 apart from any subjective intent she may  
 9 have had?  
 10 A. This doesn't say election.  
 11 Q. I am asking you what the phrase "sit out  
 12 an election", did that mean anything in  
 13 the vernacular in the Plymouth County  
 14 District Attorney's Office?  
 15 A. I don't know.  
 16 Q. All right. Did you ever encourage Bradley  
 17 to talk about the Middletons hurting  
 18 office morale?  
 19 A. To talk to who?  
 20 Q. Cruz. What did I say?  
 21 A. You didn't say anybody.  
 22 Q. Oh, sorry. Did you ever encourage  
 23 Mr. Bradley to speak to Mr. Cruz about the  
 24 manner and means by which the Middletons

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1 were hurting morale?  
 2 A. I am sure that I did.  
 3 Q. I asked you a few minutes ago if they were  
 4 hurting morale and performance, and you  
 5 said you weren't sure about performance  
 6 but you were confident about morale.  
 7 Did I get that right?  
 8 A. That is correct.  
 9 Q. Wouldn't you agree with me that if morale  
 10 is harmed, performance follows pretty  
 11 closely?  
 12 MR. COHEN: Objection. Go ahead.  
 13 A. I don't know.  
 14 Q. Okay. And what other types of information  
 15 did you confide in Mr. Bradley about?  
 16 A. Regarding what?  
 17 Q. Anything relating to the office.  
 18 A. Mostly the issue that we have been  
 19 discussing, I think.  
 20 Q. Did you tell Mr. Bradley that campaign  
 21 contributions were important to Mr. Cruz?  
 22 A. Not that I recall.  
 23 Q. Did you tell Mr. Bradley that Cruz kept  
 24 track of who contributed what?

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1 A. Not that I recall.  
 2 Q. Is it possible you did?  
 3 MR. COHEN: Objection.  
 4 MR. SINSHEIMER: I will withdraw  
 5 it in that form.  
 6 Q. Is it your testimony that it didn't  
 7 happen, or is it your testimony that as  
 8 you sit here you just can't recall?  
 9 A. As I sit here, I don't recall it. I mean  
 10 it's an office where someone runs for, for  
 11 it every four years. I mean those issues  
 12 do get discussed, but I don't remember  
 13 that specific line of discussion with  
 14 Mr. Bradley.  
 15 Q. Did you ever tell Mr. Bradley that the  
 16 employees were expected to contribute to  
 17 the campaigns?  
 18 A. No.  
 19 Q. Did you tell Mr. Bradley about the memo  
 20 that the Middletons had written about  
 21 Karen O'Sullivan?  
 22 A. I don't remember if I told Mr. Bradley  
 23 that there was a memo. He, I and everyone  
 24 else in the office knew that they were



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1 doing an investigation in response to the  
 2 O'Sullivan allegations, but I don't  
 3 remember specifically if I talked about a  
 4 memo or not.  
 5 Q. Did you tell him that he was referenced in  
 6 a memo and probably referring specifically  
 7 to this document, Exhibit 6 and 11A?  
 8 A. I don't recall.  
 9 Q. Possible?  
 10 A. I don't know because I don't remember when  
 11 I saw this.  
 12 Q. This being Exhibit 6 and 11A?  
 13 A. Correct.  
 14 Q. Do you have -- other than anything you  
 15 have heard from Mr. Cohen, are you aware  
 16 of allegations that someone took a copy of  
 17 Exhibit 6 and 11A from Mr. Cruz's office?  
 18 A. Yes.  
 19 Q. And you understood my question was other  
 20 than learning it from Mr. Cohen and his  
 21 office?  
 22 MR. SINSHEIMER: Going out of my  
 23 way, sir.  
 24 MR. COHEN: I appreciate it.

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1 Q. Do you want to think about that?  
 2 A. Yes.  
 3 Q. Okay. From who did you learn it other  
 4 than Mr. Cohen and his office?  
 5 A. Mr. Cruz.  
 6 Q. And what did you learn? What did you  
 7 learn he thought?  
 8 A. I learned that Mr. Bradley, the day, the  
 9 Saturday after I told him that he wasn't  
 10 going to be working at the DA's office any  
 11 more, that he went into Mr. Cruz's desk  
 12 and found the memo and took it.  
 13 Q. And when did Mr. Cruz tell you that?  
 14 A. I don't recall.  
 15 Q. Was it after Mr. Bradley's deposition in  
 16 this case?  
 17 A. I don't recall.  
 18 Q. Other than the information you may have  
 19 obtained from Mintz Levin, did you ever  
 20 hear that Ms. O'Sullivan took the  
 21 document?  
 22 A. Yes.  
 23 Q. From whom did you hear that?  
 24 A. I heard that from Mr. Cruz. I think that

1 is it.  
 2 Q. When did you hear that?  
 3 A. Best of my recollection, likely close in  
 4 time to when I heard that the document had  
 5 been taken.  
 6 Q. And so he told you first that Ms. -- well,  
 7 I don't know about the order. Which order  
 8 did he tell you?  
 9 A. I don't remember.  
 10 Q. So one time he told you Mr. Bradley took  
 11 it, another time he told you he thought  
 12 Ms. O'Sullivan took it?  
 13 A. I think it had to do with the timing of  
 14 when it took place.  
 15 Q. Explain that to me.  
 16 A. I believe I was told that Ms. O'Sullivan  
 17 sometime summer of 2012 was quoting  
 18 directly from this document, which would  
 19 mean, I guess, the assumption would be  
 20 that it had been taken prior to the day  
 21 after Mr. Bradley's termination.  
 22 Q. And where did you learn that?  
 23 A. I believe it was Mr. Cruz.  
 24 Q. But and where did he say he learned it,

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1 she is quoting directly from the document?  
 2 A. I don't recall how that worked.  
 3 Q. Have you and Mr. Cruz discussed between  
 4 yourselves which one, if either, actually  
 5 took the document?  
 6 A. Just, just to the extent that I just  
 7 described.  
 8 MR. COHEN: One second. So just,  
 9 Rob, so we are clear, to the extent that  
 10 this is in connection with the litigation,  
 11 there is a joint defense privilege  
 12 associated with this communication.  
 13 MR. SINSHEIMER: Except that  
 14 there is a joint defense privilege, you  
 15 don't have to argue about that. But if  
 16 you are sitting back in the office having  
 17 a conversation, you know, and I am not  
 18 alleging either one took it, but you know,  
 19 well, Bradley testified to it but we don't  
 20 believe him, we think she took it, I am  
 21 entitled to that conversation.  
 22 MR. COHEN: I actually don't  
 23 think that you are. So I think you can  
 24 ask him, Rob, with all due respect, you